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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

HUYNH, SON P

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/744,215

Applicant(s)

AGASSE, BERNARD

Examiner

Son P. Huynh

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 15 and 31-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15 and 31-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 15, 31-53 have been considered but are moot in view of the new ground(s) of rejection.

Claims 1-14, 16-30 have been canceled.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 15, 31-53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 15 and 42 recite the limitation "the selected item is displayed in **the first location in the at least one subsidiary menu**" in lines 12-13. There is insufficient antecedent basis for this limitation in the claim. Instead, claims 15 and 42 recite the limitation "wherein the selected item is originally displayed in **a first location in the**

**service menu**", line 11, wherein "at least one subsidiary menu for display on the display superimposed over the program together with **only the selected menu item...**"

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious: at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 15 and 31-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,772,433 to LaJoie et al. in view of U.S. Patent No. 6,536,041 to Knudson et al.

Regarding Claim 15, LaJoie discloses a method for providing a user with options for accessing at least one of a plurality of received channels (See Figure 16) comprising at least one channel (390) and a service channel (Col. 16, Lines 12-33) of a digital television system (See Figure 1) comprising the steps of generating a service menu for display on a display (See Figure 16), the service menu comprising a list of menu items corresponding to a plurality of services available to a user (i.e. theme categories, titles, channels of programming available). Further disclosure is generating, upon selection of one of the listed services from the service menu (i.e. selecting theme/an IPPV channel from the EPG), at least one subsidiary menu (particular themes category) for display on

the display with only the menu item corresponding to the selected service (all programs within the selected theme) to provide the user with a plurality of options for accessing at least one of the received channels (Col. 6, lines 15-46; col. 31, Lines 15-25). What is not disclosed, however, is that the menus are superimposed over a program transmitted on one of the received channels, wherein interference with the program is minimal.

Knudson discloses an electronic program guide (controllable ticker 186) wherein the menus (e.g. categories) and sub-menu (selected category and associated items of status information) are superimposed over program transmitted on a video channel (col. 13, line 50-col. 15, line 16, figure 13), wherein the selected menu item (e.g. major league baseball) is originally displayed in a first location in the service menu (e.g. location in controllable ticker 186 –figure 13), and wherein upon selection, the selected menu item is displayed in the first location in the at least one subsidiary menu (upon selection category "Major League Baseball", the selected menu item is displayed in the location in controllable ticker 186 – figure 13); Knudson further discloses the menu (e.g. menu in controllable ticker) is displayed as a portion of the user's television screen broadly reads on wherein interference with the program is minimal (col. 13, line 50-col. 15, line 16, figure 13). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of LaJoie to use the teaching as taught by Knudson in order at least to allow the user to continue to listen to and watch the program while the controllable ticker is displayed (col. 14, lines 49-55; col. 14, line 60-col. 15, line 14).

Regarding Claim 31, LaJoie in view of Knudson disclose a method as stated above in Claim 15. Knudson further discloses the list of services contained in the service menu (controllable ticker) is varied according to user's preferences (col. 16, lines 40-53). It would have been obvious to one of ordinary skill in the art at the time the invention was made that the list of services contained in the menu is varied according to the subscription rights of the user to allow of access/display of the services based on different levels of purchased services or to parentally restrict children from accessing various services, for example.

Regarding Claim 32, LaJoie in view of Knudson disclose a method as stated above in Claim 15. LaJoie further discloses allowing a user to sort the list of services (EPG) by user preference (See Figures 20-23 and Col. 26, Line 42 – Col. 27, Line 32 and Col. 28, Lines 11-53). This reads on the claimed list of services contained in the menu being ordered according to the preferences of the user. Alternatively, Knudson also discloses the list of services contained in the service menu (controllable ticker) is ordered according to the preferences of the user (col. 14, line 28-col. 15, line 14).

Regarding Claim 33, LaJoie in view of Knudson disclose a method as stated above in Claim 15. LaJoie further discloses that control signals are received from a remote control handset (Col. 15, Lines 3-6).

Regarding Claim 34, LaJoie in view of Knudson disclose a method as stated above in Claim 33. LaJoie further discloses that the service menu is generated for display on the display in response to the touch of a single dedicated key on the handset (Col. 26, Lines 11-13).

Regarding Claim 35, LaJoie in view of Knudson disclose a method as stated above in Claim 33. LaJoie further discloses that the display of the list of services contained in the menu is scrolled in response to commands received from navigation keys of the handset (Col. 25, Lines 3-10).

Regarding Claim 36, LaJoie in view of Knudson disclose a method as stated above in Claim 15. LaJoie further discloses that the service menu is scrolled within a fixed framework such that the cursor and grid do not move (Col. 24, Line 66 – Col. 25, Line 3). This reads on the claimed service menu being scrolled around a fixed bar displayed on the display.

Regarding Claim 37, LaJoie in view of Knudson disclose a method as stated above in Claim 36. LaJoie further discloses that the fixed bar (cursor and grid framework of the EPG) include navigations arrows showing possible directions of movement of the service menu (See Figure 16, 352, 354, 356 and 358).

Regarding Claim 38, LaJoie in view of Knudson disclose a method as stated above in Claim 15. LaJoie further discloses that upon user selection of one of the options from the subsidiary menu (for example, pressing the buy option of Figure 28), a second subsidiary menu is generated for display on the display with the selected one of the listed services (552) to provide the user with a plurality of further options (554, PIN Entry or Cancel) for accessing at least one of the received channels (Col. 31, Lines 15-36).

Regarding Claim 39, LaJoie in view of Knudson disclose a method as stated above in Claim 15. LaJoie further discloses that the channel displayed on the display is changed in response to the selection of a particular option from a subsidiary menu (Col. 31, Lines 33-36).

Regarding Claim 40, LaJoie in view of Knudson disclose a method as stated above in Claim 39. LaJoie further discloses that the set top box tunes to a channel to immediately display an IPPV event in response to the user's selection from the subsidiary menu as stated above. This reads on the claimed service channel from the received channels (IPPV channel) being accessed at a particular display screen (wherever the IPPV event is in progress) within that service channel in dependence on the option chosen within a subsidiary menu.

Regarding Claim 41, LaJoie in view of Knudson disclose a method as stated above in Claim 15. LaJoie further discloses that the menus contain regularly updated information



received together with the program over which the menus are superimposed (Col. 30, Lines 55-58).

Regarding Claim 42, the limitations of the decoder as claimed correspond to the limitations of the method as claim in claim 15, and are analyzed as discussed with respect to the rejection of claim 15. LaJoie further discloses a decoder (See Figure 3, 38) for receiving the channels and a control unit (30, 36) for generating the menus.

Regarding Claims 43-53, the additional limitations as claimed correspond to the additional limitations of the method as claimed in claims 31-41 respectively, and are analyzed as discussed with respect to the rejection of claims 31-41.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Reynolds et al. (US 6,563,515) discloses program guide system with video window browsing.

Otsuki et al. (US 5,929,932) discloses program guide display controllable at user terminal of television broadcasting system.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Son P. Huynh  
May 30, 2006

  
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